

INSURANCE DIVISION[191]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code chapter 505, the Insurance Division hereby gives Notice of Intended Action to amend Chapter 20, “Property and Casualty Insurance,” Chapter 30, “Life Insurance Policies and Annuities,” Chapter 35, “Accident and Health Insurance,” Chapter 39, “Long-Term Care Insurance,” and Chapter 40, “Health Maintenance Organizations,” Iowa Administrative Code.

The purpose of these amendments is to clarify the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5, 514B.17, 514B.17A, 514D.3, 514G.111, 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 and rules 191—39.22(514G), 191—39.29(514G), 191—40.10(514B) and 191—92.6(508).

The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4)“b,” provides that a requirement under a law, other than Iowa Code chapter 554D, “to send, communicate, or transmit a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law.” The notification laws contain varied statutory language, all with the express intent to require that policyholders are provided reasonable advance notice that insurance coverage will cease on a date certain. Iowa Code chapter 505B, which became effective on July 1, 2014, authorizes insurers and policyholders to consent to the delivery of notices or documents by electronic means. Iowa Code section 505B.1(6) provides “[i]f a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.” This provision must be applied in the context of the importance of the actual receipt by policyholders of notices of cancellation, suspension, forfeiture, nonrenewal or termination. The presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law. The Iowa Supreme Court has held that “[p]roof that a document was properly mailed raises a presumption that it was received.” *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982). Electronic transmission does not carry a similar presumption of receipt, so verification or acknowledgment of receipt would be required for electronic delivery of all notices of cancellation, suspension, forfeiture, nonrenewal and termination by an insurer. As of the date these amendments are proposed, the Commissioner has not found, reviewed or evaluated any reliable electronic verification or acknowledgment methods, so the Commissioner must conclude that electronic transmissions currently fail to satisfy the notice requirements of the Iowa Code sections referenced above. However, additional communication by electronic means of these notices may be provided by the insurer as a service to the policyholder.

The Division intends that insurance companies doing business in Iowa must be in compliance with these amendments beginning July 1, 2015.

Any interested person may make written suggestions or comments on these proposed amendments on or before April 21, 2015. Such written materials should be directed to Doug Ommen, Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319; fax (515)281-3059; e-mail doug.ommen@iid.iowa.gov.

Also, there will be a public hearing on April 21, 2015, at 2 p.m., at the offices of the Iowa Insurance Division, Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa, at which time persons

may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Division and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 505B, 508, 509B, 513B, 514, 514B, 514D, 514G, 515, 515D, 518, 518A and 519.

The following amendments are proposed.

ITEM 1. Reserve rules **191—20.73** to **191—20.79**.

ITEM 2. Adopt the following **new** division heading in **191—Chapter 20**:

DIVISION IV

CANCELLATIONS, SUSPENSIONS, FORFEITURES, NONRENEWALS AND TERMINATIONS

ITEM 3. Adopt the following **new** rule 191—20.80(505B,515,515D,518,518A,519):

191—20.80(505B,515,515D,518,518A,519) Notice of cancellation, suspension, forfeiture, nonrenewal or termination of property and casualty insurance.

20.80(1) Purpose. The purpose of this rule is to implement the policyholder protections of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8, by clarifying the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination by an insurer. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4) “b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

20.80(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 515, 518, and 518A.

20.80(3) Delivery and proof of receipt. For any notice of cancellation, suspension, forfeiture, nonrenewal or termination by an insurer under Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8 to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

20.80(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions fail to satisfy the notice requirements of Iowa Code sections 515.125, 515.126, 515.127, 515.128, 515.129, 515.129A, 515.129B, 515.129C, 515D.5, 515D.7, 518.23, 518A.29 and 519.8. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 4. Reserve rules **191—20.81** to **191—20.89**.

ITEM 5. Adopt the following **new** rule 191—30.9(505,508):

191—30.9(505,508) Notice of cancellation, forfeiture, lapse, nonrenewal or termination of life insurance and annuities.

30.9(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, forfeiture, lapse, nonrenewal and termination by an insurer, so as to require reasonable procedures for providing notice to policyholders of the consequences of cancellation, forfeiture, lapse, nonrenewal or termination of life insurance and annuity contracts. In universal life contracts, specific advance notice is required by rule 191—92.6(508). The Uniform Electronic Transactions Act, in Iowa Code section 554D.110(4) “b,” provides that a requirement under a law to send, communicate, or transmit

a record by first-class mail postage prepaid may be varied by agreement to the extent permitted by the other law. Notification regulation should effectively require reasonable advance notice to life insurance and annuity policyholders that insurance coverage will cease or be placed under a nonforfeiture benefit on a date certain. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

30.9(2) Scope. This rule shall apply to all insurance companies that issue contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25.

30.9(3) Delivery and proof of receipt. For any notice of cancellation, forfeiture, lapse, nonrenewal or termination by an insurer in contracts subject to approval by the commissioner pursuant to Iowa Code section 508.25 to be effective, an insurer must, within the time frame established by law, or such reasonable time in advance and as governed by contract, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

30.9(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions do not satisfy the notice requirements of this rule or of rule 191—92.6(508). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 6. Reserve rule **191—30.10**.

ITEM 7. Adopt the following **new** heading before new rule 191—35.9(509B,513B,514D) in **191—Chapter 35**:

GENERAL ACCIDENT AND HEALTH INSURANCE REQUIREMENTS

ITEM 8. Adopt the following **new** rule 191—35.9(509B,513B,514D):

191—35.9(509B,513B,514D) Notice of cancellation, suspension, forfeiture, nonrenewal or termination of accident and health insurance.

35.9(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code sections 509B.5, 513B.5 and 514D.3. Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

35.9(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapters 508, 512B, 515, and 520.

35.9(3) Delivery and proof of receipt. For any notice of cancellation, suspension, forfeiture, nonrenewal or termination by an insurer under Iowa Code sections 509B.5, 513B.5 and 514D.3 to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

35.9(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions do not satisfy the notice requirements of Iowa Code sections 509B.5, 513B.5 and 514D.3. However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 9. Adopt the following new rule 191—39.33(514G):

191—39.33(514G) Notice of cancellation, forfeiture, lapse, nonrenewal or termination of long-term care insurance.

39.33(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, forfeiture, lapse, nonrenewal and termination by an insurer, so as to implement the various policyholder protections intended by Iowa Code section 514G.111 and rules 191—39.22(514G) and 191—39.29(514G). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

39.33(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to transact the business of insurance under the provisions of Iowa Code chapter 508 or 515.

39.33(3) Delivery and proof of receipt. For any notice of cancellation, forfeiture, lapse, nonrenewal or termination by an insurer under Iowa Code section 514G.111 and rules 191—39.22(514G) and 191—39.29(514G) to be effective, an insurer must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

39.33(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions fail to satisfy the notice requirements of Iowa Code section 514G.111 and rules 191—39.22(514G) and 191—39.29(514G). However, additional communication of notices by electronic means may be provided by an insurer as a service to a policyholder.

This rule is intended to implement Iowa Code chapter 505B.

ITEM 10. Amend paragraph **40.10(3)“h”** as follows:

h. State that the enrollee may request such hearing by forwarding one copy of the notice of cancellation, marked to request a hearing, to the Commissioner of Insurance, ~~Lucas State Office Building~~ Two Ruan Center, 601 Locust Street, Fourth Floor, Des Moines, Iowa 50319.

ITEM 11. Adopt the following new rule 191—40.26(514B):

191—40.26(514B) Notice of cancellation, suspension, forfeiture, nonrenewal or termination of enrollment.

40.26(1) Purpose. The purpose of this rule is to clarify the authorized methods of delivery for notices of cancellation, suspension, forfeiture, nonrenewal and termination by a health maintenance organization, so as to implement the various consumer protections intended by Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B). Presumption of receipt in the context of a postal service mailing is a well-settled principle of Iowa law (see *Montgomery Ward v. Davis*, 398 N.W.2d 869, 870-871 (Iowa 1982)), but electronic transmission does not carry a similar presumption of receipt. Notwithstanding Iowa Code section 554D.110(4)“b,” delivery by electronic transmission, for the purposes of this rule, does not provide for satisfactory verification or acknowledgment of receipt, as required by Iowa Code section 505B.1(6).

40.26(2) Scope. This rule shall apply to all insurance companies holding a certificate of authority to operate an HMO under the provisions of Iowa Code chapter 514B.

40.26(3) Delivery and proof of receipt. For any notice of cancellation, suspension, forfeiture, nonrenewal or termination by a health maintenance organization under Iowa Code sections 514B.17 and 514B.17A and rule 191—40.10(514B) to be effective, a health maintenance organization must, within the time frame established by law, either deliver the notice to the named insured in person or mail the notice through the U.S. Postal Service to the last-known address of the named insured.

40.26(4) Electronic transmissions. Electronic transmissions carry no presumption of receipt. Electronic transmissions do not satisfy the notice requirements of Iowa Code sections 514B.17 and

514B.17A and rule 191—40.10(514B). However, additional communication of notices by electronic means may be provided by an insurer as a service to the named insured.

This rule is intended to implement Iowa Code chapter 505B.